

THE CASE OF

Edward Gernon and William Fortescue, Esqs; in Answer to the Case and Petition of John Baker, Gent.

Nicholas Gernon, late of *Miltown* in the County of *Lowth*, Esq; Deceas'd, being seiz'd in Fee of several Lands, &c. did on his Inter-Marriage with *Anne Nottingham*, pursuant to Articles made in 1682, and by Deeds in 1685. convey the same to certain Persons to the use of himself for Life, with Remainder to the Issue Male of the said Marriage, in tail Male, Remainder to *George Gernon* of *Dunary* in tail Male, Remainder to *Edward Gernon* in tail Male, reversion to his own right Heirs.

The said *Nicholas* died in *September* 1689 and was never outlaw'd, leaving Issue by his said Wife, two Sons, and *Margaret* his only Child by a former Venter, now Wife of the said *William Fortescue*.

The said Sons are since Dead without Issue.

The said *George* was attainted of High Treason.

The said Settlement is found by Inquisition.

The late King being seiz'd of the said Estate of *George*, by the said Attainder, granted the same by Letters Patents to the Petitioner and his Heirs.

The said Settlement and Inquisition, are recited in the said Letters Patents.

The said *George* is now Dead without Issue.

The said *Edward* is adjudg'd to the Benefit of the Articles of *Limerick*, and has brought Ejectments for the Recovery of the said Estate, which is now depending in *Ireland*.

The said *Baker* knowing his Estate in the Premises to be determin'd by the Death of the said *George Gernon*, without Issue Male, prefer'd a Petition to the House of Commons of *Ireland*, of the same Purport with that now presented to this Honourable House, praying that Heads of a Bill might be brought in to transfer the Estates of the said *Edward* and *William*, to the said *Baker*, under the notion of destroying Remainders limited to Papists, tho' the said *William* is a Protestant of an Ancient *English* Protestant Family, Son of Sir *Thomas Fortescue*, Knight, and has seven Children by the said *Margaret*, bred Protestants. ; for which Reason they have hitherto been depriv'd of the said Estate.

Which Petition being referr'd to a Committee, the Committee upon hearing Council on both sides, were unanimously of Opinion, the Heads of a Bill ought not to be receiv'd on the said Petition.

And 'tis Humbly Hop'd, that the Honourable House of Commons of *England*, will reject the said *Baker's* Petition; for the Reasons following,

First, That the said *Baker* has Enjoy'd all the late King intended to grant him, and what he (knowing the Nature of the Grant) was willing to accept.

Secondly, Because the Remainder in Tail limited to the said *Edward*, being Executed, and the Estate vested in him, Mr. *Baker* might with as much Reason and Justice, Petition to have the Lands of any other Person settled on him by Act of Parliament, as the said Estate he now Petitions for.

Thirdly, That the forfeited Estate of the said *George* was never vested in the Trustees, by the Act of Resumption, and so decreed by them on the said *Edward's* Claim; That if the forfeited Estate Tail had been vested in the Trust, yet by a particular Clause in the said Act, providing for Persons compriz'd within the Articles of *Limerick*; the Estate of the said *Edward* was sufficiently secured, so that the granting of the said Petition would be a Violation of publick Faith, given by the said Articles which are confirmed by several Acts of Parliament.

That if Meriting well of the Government, were a reason to take away a Papist's Estate, and to give it to such Meriting Protestant, which is the only Foundation of the Petition, yet this Estate ought not to be given to the Petitioner, because the said *William Fortescue*, who is seiz'd of the Reversion after the Determination of the said *Edward's* Estate, who has no Child, nor Hopes of any, and is upwards of 60 Years of Age, and has actually agreed to convey the same to the said *William Fortescue*, who was as Eminently serviceable in the late Rebellion, as the Petitioner's Father, suffer'd and lost more than he could possibly do, he being at the time of the Revolution in no Post, and never before more than a Lieutenant of Foot, the said *William Fortescue* having laid down the Command of a Foot Company, to take Service for the Protestant Interest, who was possess'd of more than 2000 l. which was taken from him by the Rebels, and some of his Children perish'd in Ditches, yet did not apply for any Recompense, and *Baker* has receiv'd above 5000 l. from the Crown already.

Fifthly, That the Parliament of *Ireland* is now sitting, where the Petitioner may have such Relief as in Justice he can be Intitl'd to, and a Committee of the House of Commons of that Kingdom, (to whom the Persons and Circumstances of all Parties concern'd, are better known than they can be here,) having rejected upon a full hearing, the said *Baker's* Allegations: It can't be doubted, but the Wisdom of this Honourable House will give it the very same Fate.